

Senate Bill No. 1299

CHAPTER 646

An act to amend the heading of Article 6 (commencing with Section 11383) of Chapter 6 of Division 10 of, to amend Section 11383 of, and to add Sections 11383.5, 11383.6, and 11383.7 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 29, 2006. Filed with
Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1299, Speier. Controlled substances: precursors: phencyclidine or methamphetamine.

(1) Existing law generally makes it a felony punishable by 2, 4, or 6 years in the state prison for a person to possess specified substances at the same time with the intent to manufacture phencyclidine or methamphetamine.

This bill would reorganize these provisions.

This bill would also make it a felony, punishable by 16 months, 2, or 3 years in state prison, for any person to possess specified chemicals with the intent to sell, transfer, or otherwise furnish those chemicals to another knowing that they will be used to manufacture phencyclidine or methamphetamine.

By revising existing crimes and creating new crimes, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The heading of Article 6 (commencing with Section 11383) of Chapter 6 of Division 10 of the Health and Safety Code is amended to read:

Article 6. Precursors of Phencyclidine (PCP) and Methamphetamine

SEC. 2. Section 11383 of the Health and Safety Code is amended to read:

11383. (a) Any person who possesses at the same time any of the following combinations, a combination product thereof, or possesses any compound or mixture containing the chemicals listed in the following combinations, with the intent to manufacture phencyclidine (PCP) or any of its analogs specified in subdivision (d) of Section 11054 or subdivision (e) of Section 11055, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years:

- (1) Piperidine and cyclohexanone.
- (2) Pyrrolidine and cyclohexanone.
- (3) Morpholine and cyclohexanone.

(b) Any person who possesses the optical, positional, or geometric isomer of any of the compounds listed in this section, with the intent to manufacture these controlled substances is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years:

- (1) Phencyclidine (PCP).
- (2) Any analog of PCP specified in subdivision (d) of Section 11054, or in subdivision (e) of Section 11055.

(c) Any person who possesses any compound or mixture containing piperidine, cyclohexanone, pyrrolidine, morpholine, 1-phenylcyclohexylamine (PCA), 1-piperidinocyclohexanecarbonitrile (PCC), or phenylmagnesium bromide (PMB) with the intent to manufacture phencyclidine, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(d) Any person who possesses immediate precursors sufficient for the manufacture of piperidine, cyclohexanone, pyrrolidine, morpholine, or phenylmagnesium bromide (PMB) with the intent to manufacture phencyclidine, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(e) This section does not apply to drug manufacturers licensed by this state or persons authorized by regulation of the Board of Pharmacy to possess those substances or combinations of substances.

SEC. 3. Section 11383.5 is added to the Health and Safety Code, to read:

11383.5. (a) Any person who possesses both methylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture methamphetamine, or who possesses both ethylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture N-ethylamphetamine, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(b) (1) Any person who, with the intent to manufacture methamphetamine or any of its analogs specified in subdivision (d) of Section 11055, possesses ephedrine or pseudoephedrine, or any salts, isomers, or salts of isomers of ephedrine or pseudoephedrine, or who possesses a substance containing ephedrine or pseudoephedrine, or any salts, isomers, or salts of isomers of ephedrine or pseudoephedrine, or who possesses at the same time any of the following, or a combination product

thereof, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years:

(A) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, or phenylpropanolamine, plus hydriodic acid.

(B) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, or phenylpropanolamine, thionyl chloride and hydrogen gas.

(C) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, or phenylpropanolamine, plus phosphorus pentachloride and hydrogen gas.

(D) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, chloroephedrine and chloropseudoephedrine, or phenylpropanolamine, plus any reducing agent.

(2) Any person who, with the intent to manufacture methamphetamine or any of its analogs specified in subdivision (d) of Section 11055, possesses hydriodic acid or a reducing agent or any product containing hydriodic acid or a reducing agent is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(c) Any person who possesses the optical, positional, or geometric isomer of any of the compounds listed in this section, with the intent to manufacture any of the following controlled substances, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years:

(1) Methamphetamine.

(2) Any analog of methamphetamine specified in subdivision (d) of Section 11055.

(3) N-ethylamphetamine.

(d) Any person who possesses immediate precursors sufficient for the manufacture of methylamine, ethylamine, phenyl-2-propanone, ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, phenylpropanolamine, hydriodic acid or a reducing agent, thionyl chloride, or phosphorus pentachloride, with the intent to manufacture methamphetamine, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(e) Any person who possesses essential chemicals sufficient to manufacture hydriodic acid or a reducing agent, with the intent to manufacture methamphetamine, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(f) Any person who possesses any compound or mixture containing ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, phenylpropanolamine, hydriodic acid or a reducing agent, thionyl chloride, or phosphorus pentachloride, with the intent to

manufacture methamphetamine, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(g) For purposes of this section, a “reducing agent” for the purposes of manufacturing methamphetamine means an agent that causes reduction to occur by either donating a hydrogen atom to an organic compound or by removing an oxygen atom from an organic compound.

(h) This section does not apply to drug manufacturers licensed by this state or persons authorized by regulation of the Board of Pharmacy to possess those substances or combinations of substances.

SEC. 4. Section 11383.6 is added to the Health and Safety Code, to read:

11383.6. (a) Any person who possesses at the same time any of the following combinations, a combination product thereof, or possesses any compound or mixture containing the chemicals listed in the following combinations, with the intent to sell, transfer, or otherwise furnish those chemicals, combinations, or mixtures to another person with the knowledge that they will be used to manufacture phencyclidine (PCP) or any of its analogs specified in subdivision (d) of Section 11054 or subdivision (e) of Section 11055 is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, two, or three years:

- (1) Piperidine and cyclohexanone.
- (2) Pyrrolidine and cyclohexanone.
- (3) Morpholine and cyclohexanone.

(b) Any person who possesses the optical, positional, or geometric isomer of any of the compounds listed in this section with the intent to sell, transfer, or otherwise furnish the isomer to another person with the knowledge that they will be used to manufacture these controlled substances is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, two, or three years:

- (1) Phencyclidine (PCP).

(2) Any analog of PCP specified in subdivision (d) of Section 11054, or in subdivision (e) of Section 11055.

(c) Any person who possesses any compound or mixture containing piperidine, cyclohexanone, pyrrolidine, morpholine, 1-phenylcyclohexylamine (PCA), 1-piperidinocyclohexanecarbonitrile (PCC), or phenylmagnesium bromide (PMB) with the intent to sell, transfer, or otherwise furnish the compound or mixture to another person with the knowledge that it will be used to manufacture phencyclidine is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, two, or three years.

(d) Any person who possesses immediate precursors sufficient for the manufacture of piperidine, cyclohexanone, pyrrolidine, morpholine, or phenylmagnesium bromide (PMB) with the intent to sell, transfer or otherwise furnish the immediate precursors to another person with the knowledge that they will be used to manufacture phencyclidine is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, two, or three years.

(e) This section does not apply to drug manufacturers licensed by this state or persons authorized by regulation of the Board of Pharmacy to possess those substances or combinations of substances.

SEC. 5. Section 11383.7 is added to the Health and Safety Code, to read:

11383.7. (a) Any person who possesses both methylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to sell, transfer, or otherwise furnish those chemicals to another person with the knowledge that they will be used to manufacture methamphetamine, or who possesses both ethylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to sell, transfer, or otherwise furnish those chemicals to another person with the knowledge that they will be used to manufacture methamphetamine is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, two, or three years.

(b) (1) Any person who possesses ephedrine or pseudoephedrine, or any salts, isomers, or salts of isomers of ephedrine or pseudoephedrine, or who possesses a substance containing ephedrine or pseudoephedrine, or any salts, isomers, or salts of isomers of ephedrine or pseudoephedrine, or who possesses at the same time any of the following, or a combination product thereof, with the intent to sell, transfer, or otherwise furnish those chemicals, substances, or products to another person with the knowledge that they will be used to manufacture methamphetamine or any of its analogs specified in subdivision (d) of Section 11055 is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, two, or three years:

(A) Ephedrine, pseudoephedrine, norpseudoephedrine,
N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine,
N-ethylpseudoephedrine, or phenylpropanolamine, plus hydriodic acid.

(B) Ephedrine, pseudoephedrine, norpseudoephedrine,
N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine,
N-ethylpseudoephedrine, or phenylpropanolamine, thionyl chloride and hydrogen gas.

(C) Ephedrine, pseudoephedrine, norpseudoephedrine,
N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine,
N-ethylpseudoephedrine, or phenylpropanolamine, plus phosphorus pentachloride and hydrogen gas.

(D) Ephedrine, pseudoephedrine, norpseudoephedrine,
N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine,
N-ethylpseudoephedrine, chloroephedrine and chloropseudoephedrine, or phenylpropanolamine, plus any reducing agent.

(2) Any person who possesses hydriodic acid or a reducing agent or any product containing hydriodic acid or a reducing agent with the intent to sell, transfer, or otherwise furnish that chemical, product, or substance to another person with the knowledge that they will be used to manufacture methamphetamine or any of its analogs specified in subdivision (d) of Section 11055 is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, two, or three years.

(c) Any person who possesses the optical, positional, or geometric isomer of any of the compounds listed in this section with the intent to sell, transfer, or otherwise furnish any of the compounds to another person with the knowledge that they will be used to manufacture these controlled substances is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, two, or three years:

(1) Methamphetamine.

(2) Any analog of methamphetamine specified in subdivision (d) of Section 11055.

(3) N-ethylamphetamine.

(d) Any person who possesses immediate precursors sufficient for the manufacture of methylamine, ethylamine, phenyl-2-propanone, ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, phenylpropanolamine, hydriodic acid or a reducing agent, thionyl chloride, or phosphorus pentachloride, with the intent to sell, transfer, or otherwise furnish these substances to another person with the knowledge that they will be used to manufacture methamphetamine is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, two, or three years.

(e) Any person who possesses essential chemicals sufficient to manufacture hydriodic acid or a reducing agent with the intent to sell, transfer, or otherwise furnish those chemicals to another person with the knowledge that they will be used to manufacture methamphetamine is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, two, or three years.

(f) Any person who possesses any compound or mixture containing ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, phenylpropanolamine, hydriodic acid or a reducing agent, thionyl chloride, or phosphorus pentachloride, with the intent to sell, transfer, or otherwise furnish that compound or mixture to another person with the knowledge that they will be used to manufacture methamphetamine is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, two, or three years.

(g) For purposes of this section, a “reducing agent” for the purposes of manufacturing methamphetamine means an agent that causes reduction to occur by either donating a hydrogen atom to an organic compound or by removing an oxygen atom from an organic compound.

(h) This section does not apply to drug manufacturers licensed by this state or persons authorized by regulation of the Board of Pharmacy to possess those substances or combinations of substances.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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